

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DEBORAH M.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

Case No. 3:19-cv-05760

ORDER REVERSING AND  
REMANDING DEFENDANT'S  
DECISION TO DENY BENEFITS

Plaintiff has brought this matter for judicial review of Defendant's denial of her application for disability insurance benefits.

The parties have consented to have this matter heard by the undersigned Magistrate Judge. 28 U.S.C. § 636(c); Federal Rule of Civil Procedure 73; Local Rule MJR 13. For the reasons set forth below, the undersigned agrees that the ALJ erred, and the ALJ's decision is reversed and remanded for further administrative proceedings.

I. ISSUES FOR REVIEW

1. Did the ALJ err in evaluating Plaintiff's impairments at step two?
2. Did the ALJ properly evaluate the medical opinion evidence?
3. Did the ALJ err in assessing lay witness statements?

II. BACKGROUND

On August 21, 2013, Plaintiff filed an application for disability insurance benefits, alleging that she became disabled on April 16, 2012. AR 11, 181-82. Plaintiff's application was denied upon initial administrative review and on reconsideration. AR 11,

1 115-21, 123-27. A hearing was held before Administrative Law Judge (“ALJ”) James W.  
2 Sherry on March 19, 2015. AR 28-81, 809-62. On May 18, 2015, ALJ Sherry issued a  
3 written decision finding that Plaintiff was not disabled. AR 8-22, 764-78. The Social  
4 Security Appeals Council denied Plaintiff’s request for review on July 27, 2016. AR 1-6,  
5 784-89.

6 On September 27, 2016, Plaintiff filed a complaint in this Court seeking judicial  
7 review of ALJ Sherry’s written decision. AR 791. On August 30, 2017, this Court granted  
8 a stipulated motion to reverse and remand this case for further administrative  
9 proceedings so the ALJ could re-evaluate Plaintiff’s testimony, opinion evidence from  
10 Alicia Grattan, M.D., Amanda Kaare, OTP, and Kathleen Heppell, MA, and lay witness  
11 testimony from Plaintiff’s husband. AR 790-802. On August 2, 2017, the Appeals  
12 Council vacated ALJ Sherry’s decision and issued an order remanding the case for  
13 further administrative proceedings consistent with the Court’s order. AR 803-08.

14 On January 11, 2018, ALJ Allen Erickson held a new hearing. AR 692-763. On  
15 July 31, 2018 ALJ Erickson issued a written decision finding that Plaintiff was not  
16 disabled. AR 659-80. On June 17, 2019, the Appeals Council declined to assume  
17 jurisdiction over Plaintiff’s case. AR 648-54.

18 On August 16, 2019, Plaintiff filed a complaint in this Court seeking judicial  
19 review of the ALJ’s written decision. Dkt. 1. Plaintiff seeks disability benefits from the  
20 April 16, 2012 onset date through December 31, 2015; Plaintiff returned to gainful  
21 employment in January 2016. AR 663, 709.

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III. STANDARD OF REVIEW

The Court will uphold an ALJ's decision unless: (1) the decision is based on legal error, or (2) the decision is not supported by substantial evidence. *Revels v. Berryhill*, 874 F.3d 648, 654 (9th Cir. 2017). Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Biestek v. Berryhill*, 139 S. Ct. 1148, 1154 (2019) (quoting *Consolidated Edison Co. v. NLRB*, 305 U.S. 197, 229 (1938)). This requires "more than a mere scintilla," of evidence. *Id.*

The Court must consider the administrative record as a whole. *Garrison v. Colvin*, 759 F.3d 995, 1009 (9th Cir. 2014). It must weigh both the evidence that supports, and evidence that does not support, the ALJ's conclusion. *Id.* The Court considers in its review only the reasons the ALJ identified and may not affirm for a different reason. *Garrison*, 579 F.3d at 1010. Furthermore, "[l]ong-standing principles of administrative law require us to review the ALJ's decision based on the reasoning and actual findings offered by the ALJ—not post hoc rationalizations that attempt to intuit what the adjudicator may have been thinking." *Bray v. Comm'r of SSA*, 554 F.3d 1219, 1225-26 (9th Cir. 2009) (citations omitted).

If the ALJ's decision is based on a rational interpretation of conflicting evidence, the Court will uphold the ALJ's finding. *Carmickle v. Comm'r of Soc. Sec. Admin.*, 533 F.3d 1155, 1165 (9th Cir. 2008). It is unnecessary for the ALJ to "discuss *all* evidence presented". *Vincent on Behalf of Vincent v. Heckler*, 739 F.2d 1393, 1394-95 (9th Cir. 1984) (citation omitted) (emphasis in original). The ALJ must only explain why "significant probative evidence has been rejected." *Id.*

1 IV. DISCUSSION

2 In his May 2015 decision, ALJ Sherry found that Plaintiff had the following  
3 severe, medically determinable impairments: degenerative disc disease of the lumbar  
4 spine with lumbago; irritable bowel syndrome; restless leg syndrome obstructive sleep  
5 apnea; chronic left knee pain; type 2 diabetes mellitus; post-traumatic stress disorder;  
6 and major depressive disorder. AR 13. ALJ Sherry also found that Plaintiff had the non-  
7 severe impairment of osteoarthritis of the left knee. *Id.*

8 In his 2018 decision, ALJ Erickson found that Plaintiff had the following severe,  
9 medically determinable impairments: degenerative joint disease of the left sacroiliac  
10 joint and left knee; fibromyalgia; major depressive disorder; and posttraumatic stress  
11 disorder. AR 665. ALJ Erickson found that Plaintiff had the non-severe impairments of  
12 degenerative disc disease of the lumbar spine; irritable bowel syndrome; restless leg  
13 syndrome; obstructive sleep apnea; and type 2 diabetes mellitus. AR 665-66.

14 Based on the limitations stemming from these impairments, ALJ Erickson  
15 assessed Plaintiff as being able to perform a reduced range of light work with a range of  
16 postural, environmental, and mental limitations. AR 668. Relying on vocational expert  
17 (“VE”) testimony, the ALJ found that Plaintiff could perform other light, unskilled work at  
18 step five of the sequential evaluation; therefore ALJ Erickson determined at step five  
19 that Plaintiff was not disabled. AR 679-80, 752-55.

20 A. Whether the ALJ erred at step two of the sequential evaluation

21 Plaintiff contends that at step two of the sequential evaluation, ALJ Erickson did  
22 not adequately explain why he found several impairments non-severe that ALJ Sherry  
23 found severe, and did not incorporate the limitations stemming from Plaintiff’s non-  
24 severe impairments into Plaintiff’s residual functional capacity (“RFC”). Dkt. 11, pp. 7-8.

1 At step two of the sequential evaluation process, the ALJ determines whether the  
2 claimant “has a medically severe impairment or combination of impairments.” *Smolen v.*  
3 *Chater*, 80 F.3d 1273, 1290 (9th Cir. 1996) (citation omitted); 20 C.F.R. §  
4 404.1520(a)(4)(ii). This step is a threshold determination to identify weak claims; it is not  
5 a means for identifying severe conditions for purposes of limiting the RFC analysis to  
6 severe conditions. *Buck v. Berryhill*, 869 F.3d 1040, 1048-49 (9th Cir. 2017).

7 Here, ALJ Erickson found that several impairments that ALJ Sherry found severe  
8 in his 2015 decision, specifically degenerative disc disease of the lumbar spine, irritable  
9 bowel syndrome, restless leg syndrome, obstructive sleep apnea, and type 2 diabetes  
10 mellitus, were non-severe. AR 13, 665-66.

11 In finding these impairments non-severe, ALJ Erickson reasoned that they did  
12 not cause significant functional limitations during the period at issue, between Plaintiff’s  
13 alleged disability onset date of April 16, 2012 and her date last insured, September 30,  
14 2014. AR 665-66, 670. ALJ Erickson found that imaging of Plaintiff’s lumbar spine  
15 revealed only mild degenerative changes, and Plaintiff’s irritable bowel syndrome,  
16 diabetes, sleep apnea and restless leg syndrome were managed with treatment and  
17 medication. AR 364, 369, 532, 549, 619, 666, 968, 993, 997, 999.

18 In *Buck v. Berryhill*, after an initial hearing, the ALJ found that Plaintiff had only  
19 two severe impairments: attention deficit hyperactivity disorder (“ADHD”) and bipolar  
20 disorder. 869 F.3d 1040, 1048 (9th Cir. 2017). After a second hearing, held pursuant to  
21 a federal court remand order, the ALJ found three new severe impairments at step two:  
22 personality disorder, marijuana addiction (in remission), and methamphetamine  
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1 addiction (in remission). *Id.* Despite the addition of these new impairments, the ALJ  
2 assessed an identical RFC after both hearings. *Id.*

3 The Court in *Buck* affirmed the ALJ's decision on this point, and emphasized that  
4 an ALJ must consider limitations and restrictions imposed by *all* an individual's  
5 impairments, even those that are not "severe". 869 F.3d 1040, 1049 (9th Cir. 2017)  
6 (citing Titles II & XVI: Assessing Residual Functional Capacity in Initial Claims, SSR 96-  
7 8p, 1996 WL 374184, at \*5 (S.S.A. July 2, 1996)).

8 This case is distinguishable from *Buck*. Unlike the situation in *Buck* – where the  
9 ALJ made the same determination of the RFC regardless of whether each of the  
10 conditions had been categorized as severe, or non-severe – here, despite assessing  
11 identical impairments in both decisions, ALJ Erickson relied on his finding that Plaintiff's  
12 impairments were non-severe to assess a significantly less restrictive RFC that appears  
13 to omit limitations related to Plaintiff's non-severe impairments. AR 668, *compare with*  
14 AR 16. Accordingly, the ALJ erred at step two of the sequential evaluation.

15 B. Whether the ALJ erred in evaluating the medical opinion evidence

16 Plaintiff contends that the ALJ erred in evaluating the opinion of examining  
17 psychiatrist Alice Grattan, M.D. Dkt. 11, pp. 10-12.

18 In assessing an acceptable medical source – such as a medical doctor – the ALJ  
19 must provide "clear and convincing" reasons for rejecting the uncontradicted opinion of  
20 either a treating or examining physician. *Lester v. Chater*, 81 F.3d 821, 830 (9th Cir.  
21 1995) (citing *Pitzer v. Sullivan*, 908 F.2d 502, 506 (9th Cir. 1990)); *Embrey v. Bowen*,  
22 849 F.2d 418, 422 (9th Cir. 1988)). When a treating or examining physician's opinion is  
23 contradicted, the opinion can be rejected "for specific and legitimate reasons that are  
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1 supported by substantial evidence in the record.” Lester, 81 F.3d at 830-31 (citing  
2 *Andrews v. Shalala*, 53 F.3d 1035, 1043 (9th Cir. 1995); *Murray v. Heckler*, 722 F.2d  
3 499, 502 (9th Cir. 1983)).

4 Dr. Grattan examined Plaintiff on October 26, 2013. AR 487-91. Dr. Grattan’s  
5 evaluation consisted of a clinical interview and a mental status examination. Based on  
6 this evaluation, Dr. Grattan opined that Plaintiff could perform simple and repetitive  
7 tasks, but would have more difficulty with detailed and complex tasks. AR 491. Dr.  
8 Grattan stated that Plaintiff could accept instructions from supervisors and interact with  
9 co-workers and the public if needed. *Id.* Dr. Grattan further opined that Plaintiff could  
10 maintain regular attendance in the workplace, but could not perform a normal workweek  
11 without moderate interruptions from her psychiatric condition, and would not deal well  
12 with the stress encountered in a usual competitive work environment. *Id.*

13 Dr. Grattan stated that Plaintiff’s mental health symptoms were complicated by  
14 chronic pain and other somatic complaints, but were treatable, and could improve with  
15 optimal treatment over the next 12 months. AR 491.

16 The ALJ assigned “some weight” to Dr. Grattan’s opinion, reasoning that Dr.  
17 Grattan was able to perform an in-person examination, and her opinion that Plaintiff  
18 could perform simple and repetitive tasks, accept instructions from supervisors and  
19 interact with coworkers and the public if needed, and maintain regular attendance in the  
20 workplace was largely consistent with the results of Dr. Grattan’s examination and  
21 Plaintiff’s self-reported activities of daily living. AR 674.

22 The ALJ also found that Plaintiff was more limited than opined by Dr. Grattan in  
23 terms of social functioning, given Dr. Grattan’s contemporaneous findings that Plaintiff  
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1 presented as tearful throughout the interview as well as with an angry mood and a  
2 restricted affect. *Id.*

3 The ALJ assigned “little weight” to the Global Assessment of Functioning (“GAF”)  
4 score assessed by Dr. Grattan and Dr. Grattan’s opinion that Plaintiff would not deal  
5 well with the stress encountered in a usual competitive work environment, reasoning  
6 that: (1) these findings were inconsistent with Plaintiff’s self-reported activities of daily  
7 living; (2) Plaintiff’s mental health symptoms were partly attributable to situational  
8 stressors; and (3) these limitations were inconsistent with Dr. Grattan’s statement that  
9 Plaintiff’s condition could improve with optimal treatment after 12 months. AR 674.

10 With respect to the ALJ’s first two reasons, the Social Security Administration  
11 must set forth the reasoning behind its decisions in a way that allows for meaningful  
12 review, and the ALJ must build an accurate and logical bridge from the evidence to his  
13 or her conclusions. *See Brown-Hunter v. Colvin*, 806 F.3d 487, 492 (9th Cir. 2015);  
14 *Blakes v. Barnhart*, 331 F.3d 565, 569 (7th Cir. 2003) (citations omitted); see also  
15 *Embrey v. Bowen*, 849 F.2d 418, 421 (9th Cir. 1988) (An ALJ errs when he or she  
16 “merely states” that facts “point toward an adverse conclusion” yet “makes no effort to  
17 relate any of these” facts to “the specific medical opinions and findings he rejects.”). The  
18 ALJ has not stated which of Plaintiff’s activities of daily living are inconsistent with Dr.  
19 Grattan’s opinion, or indicated how Plaintiff’s mental health symptoms were situational  
20 in nature.

21 As for the ALJ’s third reason, Dr. Grattan stated that “I *anticipate* that all of these  
22 conditions *could* improve with *optimal* treatment over the next 12 months.” AR 491  
23 (emphasis added). *See* 20 C.F.R. § 404.1529(c)(3)(iv) (the effectiveness of medication  
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1 and treatment are relevant to the evaluation of a claimant's alleged symptoms);  
2 *Wellington v. Berryhill*, 878 F.3d 867, 876 (9th Cir. 2017) (evidence of medical treatment  
3 successfully relieving symptoms can undermine a claim of disability).

4 A speculative statement that an individual's impairments are potentially  
5 susceptible to treatment is different from a finding that those impairments actually  
6 improved following treatment, and Dr. Grattan's statement is not inconsistent with her  
7 opinion.

8 Accordingly, the ALJ has not provided specific and legitimate reasons for  
9 discounting Dr. Grattan's opinion.

10 C. Whether the ALJ erred in evaluating opinions from non-acceptable medical  
11 sources

12 Plaintiff contends that the ALJ erred in evaluating the opinions of therapist  
13 Kathleen Heppell, MA, LMCHA, occupational therapist Amanda Kaare, OTP, and  
14 Plaintiff's husband. Dkt. 11, pp. 8-14.

15 When evaluating opinions from non-acceptable medical sources such as a  
16 therapist or a family member, an ALJ may expressly disregard such lay testimony if the  
17 ALJ provides "reasons germane to each witness for doing so." *Turner v. Commissioner*  
18 *of Social Sec.*, 613 F.3d 1217, 1224 (9th Cir. 2010) (citing *Lewis v. Apfel*, 236 F.3d 503,  
19 511 (9th Cir. 2001); 20 C.F.R. § 404.1502.

20 1. Ms. Heppell

21 Plaintiff's therapist, Ms. Heppell, treated Plaintiff between September 2012 and  
22 March 2015, and provided 4 opinions concerning Plaintiff's mental limitations. AR 1077.

23 On September 30, 2013, Ms. Heppell recommended that Plaintiff receive  
24 disability insurance benefits and help to explore possible employment options that might  
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1 meet her physical and emotional capabilities. AR 484. Ms. Heppell stated that it was  
2 possible that Plaintiff could engage in full time work, but that Plaintiff, who was then  
3 working part time, was having difficulty adjusting from being her own boss and meeting  
4 her own schedule to being under the supervision of others as would have to deal with  
5 symptoms of depression, anger, and PTSD if she came into conflict with others at work.  
6 *Id.* Ms. Heppell stated that Plaintiff had made progress in therapy, and she was hopeful  
7 concerning Plaintiff's prognosis. *Id.*

8 On March 10, 2014, Ms. Heppell again recommended that Plaintiff receive  
9 disability insurance benefits and help to explore job opportunities, and again stated that  
10 it was possible that Plaintiff might be able to "work into full time work." AR 505.

11 On February 13, 2015, Ms. Heppell completed a detailed functional capacity  
12 evaluation. AR 574-77. Ms. Heppell opined that Plaintiff would be "off-task" for more  
13 than 30 percent of an 8-hour workday due to her mental impairments, particularly if her  
14 job had a "high physical requirement." AR 576. Ms. Heppell stated that Plaintiff would be  
15 unable to complete an 8-hour workday more than 30 percent of the time due to her  
16 mental impairments, and would be unable to sustain full-time work for more than 6  
17 months. AR 577.

18 On March 2, 2015, Ms. Heppell again recommended that Plaintiff receive  
19 disability insurance benefits and help to explore job opportunities, and again stated that  
20 it was possible that Plaintiff might be able to "work into full time work." AR 326.

21 The ALJ assigned "great weight" to the GAF scores assessed by Ms. Heppell.  
22 AR 677. However, the ALJ otherwise assigned "little weight" to Ms. Heppell's opinions,  
23 reasoning that: (1) they were inconsistent with Ms. Heppell's treatment notes, which  
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1 revealed largely unremarkable objective findings; (2) Ms. Heppell's opinions were  
2 inconsistent with Plaintiff's activities of daily living, specifically Plaintiff's decision to  
3 continue looking for work and her ability to engage in part time work during the period at  
4 issue; (3) Ms. Heppell stated that Plaintiff's mental health symptoms were largely driven  
5 by situational stressors; (4) Ms. Heppell's opinions concerning Plaintiff's limitations were  
6 based partially on Plaintiff's physical impairments, which Ms. Heppell, as a mental  
7 health therapist, was not qualified to assess; and (5) Ms. Heppell's opinions were based  
8 on Plaintiff's unreliable subjective allegations. AR 677.

9 With respect to the ALJ's first two reasons, an inconsistency between the  
10 medical evidence and the opinion of a non-acceptable medical source can constitute a  
11 germane reason for discounting that opinion. *See Baylis v. Barnhart*, 427 F.3d 1214,  
12 1218 (9th Cir. 2005) ("Inconsistency with medical evidence" is a germane reason for  
13 discrediting lay testimony); *Lewis v. Apfel*, 236 F.3d 503, 511 (9th Cir. 2001) (An ALJ  
14 may discount lay testimony that "conflicts with medical evidence"). Similarly, a conflict  
15 between the opinion of a non-acceptable medical source and a claimant's activities of  
16 daily living can serve as a germane reason for discounting such an opinion. *Carmickle*  
17 *v. Comm'r of Soc. Sec. Admin.*, 533 F.3d 1155, 1164 (9th Cir. 2007).

18 In citing the inconsistencies between the limitations assessed by Ms. Heppell, the  
19 medical record, and Plaintiff's work activity, the ALJ has provided germane reasons for  
20 discounting her opinions.

21 2. Ms. Kaare

22 Plaintiff's occupational therapist, Ms. Kaare, provided an assessment of Plaintiff's  
23 physical capacity on February 26, 2015. AR 629-32. Based on a physical examination,  
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1 Ms. Kaare opined that Plaintiff would be able to stand 2 to 4 hours, sit 3 to 4 hours, and  
2 walk 30 minutes in an 8-hour day. AR 631. Ms. Kaare added that Plaintiff could  
3 occasionally climb stairs, squat, and kneel and frequently turn her head and neck, twist,  
4 stoop, bend, reach and climb ladders during a workday. *Id.* Ms. Kaare opined that  
5 Plaintiff could perform light work. AR 632.

6 The ALJ assigned “some weight” to Ms. Kaare’s opinion, reasoning that Ms.  
7 Kaare conducted an in-person examination and her opinion that Plaintiff could perform  
8 light work with some postural limitations was consistent with largely unremarkable  
9 physical examination results, but that additional postural limitations were justified based  
10 on the opinion of Dr. Koukol. AR 676. However, the ALJ found that Ms. Kaare’s opinion  
11 concerning Plaintiff’s ability to sit, stand, and walk during an 8-hour workday was  
12 inconsistent with: (1) the largely unremarkable results of Dr. Gaffield’s consultative  
13 examination; (2) Plaintiff’s activities of daily living; and (3) Plaintiff’s improvement  
14 following physical therapy. *Id.*

15 In citing the inconsistencies between Ms. Kaare’s opinion, the medical record,  
16 and Plaintiff’s activities of daily living, the ALJ has provided germane reasons for  
17 discounting her opinion. *Baylis*, 427 F.3d at 1218; *Carmickle*, 533 F.3d at 1164; *Lewis*,  
18 236 F.3d at 512 (In rejecting lay testimony, the ALJ need not cite the specific record as  
19 long as “arguably germane reasons” for dismissing the testimony are noted, even  
20 though the ALJ does “not clearly link his determination to those reasons,” and  
21 substantial evidence supports the ALJ’s decision).

22 As such, the ALJ has provided germane reasons for discounting Ms. Kaare’s  
23 opinion.

1           3. Plaintiff's Husband

2           Plaintiff's husband provided a statement concerning Plaintiff's limitations on  
3 March 9, 2015, which largely re-stated Plaintiff's own symptom testimony. AR 198, 206,  
4 323.

5           The ALJ assigned "little weight" to this statement, reasoning that: (1) it was  
6 inconsistent with largely normal physical and mental examinations conducted during the  
7 period at issue; (2) it was inconsistent with Plaintiff's activities of daily living, specifically  
8 Plaintiff's decision to continue looking for work and her ability to engage in part time  
9 work during the period at issue; (3) Plaintiff's pain symptoms improved with exercise;  
10 and (4) Plaintiff's sleep apnea was found non-severe at step two of the sequential  
11 evaluation. AR 678.

12           For the reasons discussed above in connection with Ms. Heppell's opinion, the  
13 ALJ has provided germane reasons for discounting the statement from Plaintiff's  
14 husband. *See supra* Section C.1.

15           D. Remand with Instructions for Further Proceedings

16           "The decision whether to remand a case for additional evidence, or simply to  
17 award benefits[,] is within the discretion of the court." *Trevizo v. Berryhill*, 871 F.3d 664,  
18 682 (9th Cir. 2017) (quoting *Sprague v. Bowen*, 812 F.2d 1226, 1232 (9th Cir. 1987)). If  
19 an ALJ makes an error and the record is uncertain and ambiguous, the court should  
20 remand to the agency for further proceedings. *Leon v. Berryhill*, 880 F.3d 1041, 1045  
21 (9th Cir. 2017). Likewise, if the court concludes that additional proceedings can remedy  
22 the ALJ's errors, it should remand the case for further consideration. *Revels*, 874 F.3d  
23 at 668.

1 The Ninth Circuit has developed a three-step analysis for determining when to  
2 remand for a direct award of benefits. Such remand is generally proper only where

3 “(1) the record has been fully developed and further administrative  
4 proceedings would serve no useful purpose; (2) the ALJ has failed to  
5 provide legally sufficient reasons for rejecting evidence, whether claimant  
6 testimony or medical opinion; and (3) if the improperly discredited  
7 evidence were credited as true, the ALJ would be required to find the  
8 claimant disabled on remand.”

9 *Trevizo*, 871 F.3d at 682-83 (quoting *Garrison v. Colvin*, 759 F.3d 995, 1020 (9th Cir.  
10 2014)).

11 The Ninth Circuit emphasized in *Leon v. Berryhill* that even when each element is  
12 satisfied, the district court still has discretion to remand for further proceedings or for  
13 award of benefits. 80 F.3d 1041, 1045 (9th Cir. 2017).

14 Here, the ALJ must re-evaluate Plaintiff's impairments at step two and the  
15 opinion of Dr. Grattan. Therefore, there are outstanding issues which must be resolved  
16 and remand for further administrative proceedings is the appropriate remedy.

### 17 CONCLUSION

18 Based on the foregoing discussion, the Court finds the ALJ erred when he found  
19 Plaintiff was not disabled. Defendant's decision to deny benefits is therefore  
20 REVERSED and this matter is REMANDED for further administrative proceedings. The  
21 ALJ is directed to re-assess Plaintiff's impairments at step two and re-evaluate Dr.  
22 Grattan's opinion.

23 Dated this 22nd day of June, 2020.

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25 Theresa L. Fricke  
United States Magistrate Judge